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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/139,798	08/25/1998	WILLIAM L THOMAS	UV-57	5738
7590	06/29/2004		EXAMINER	
G VICTOR TREYZ FISH & NEAVE 1251 AVENUE OF THE AMERICAS NEW YORK, NY 100201104			HUYNH, SON P	
			ART UNIT	PAPER NUMBER
			2611	23
DATE MAILED: 06/29/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/139,798	THOMAS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Son P Huynh	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 April 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 69-126 is/are pending in the application.  
 4a) Of the above claim(s) 115-126 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 69-114 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 30 December 2002 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 29, 2004 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed on April 29, 2004 have been fully considered but they are not persuasive.

Applicants argue the limitation of "wherein selecting a geographic area defines a list of users" as claimed in claims 76 and 99 is supported in the specification by applicants' specification at the paragraph beginning on page 23, line 16. That paragraph discloses a "user is provided with opportunities to select the type of real-time ratings information that the user desires to view." and "In one described embodiment, the user may select to view real time ratings information for a specific geographic area, such as, for example, the entire nation, the state, the metropolitan area, a city, a town, etc." Then

the Applicant concludes, "by selecting to view real time ratings information for a defined area, the user has requested to view the real time rating information collected from those users in the defined area. Thus, by selecting the geographic area, the user has defined a list of users (i.e., all suitable users in the selected geographic area) – see last paragraph on page 3 – first paragraph on page 4 of the Response (Paper No. 21). The Examiner respectfully disagrees.

In response, page 23, lines 16-25 discloses, "the user is provided with opportunities to select the type of real time ratings information that the user desires to view. For example, the user is provided with an opportunity to select the geographic area for which real time ratings information is desired. The user may direct the program guide to display real time ratings information for the nation, for a state, for a metropolitan area, a city or town, or any other suitable geographic area." Thus, this paragraph does not indicate the limitation "wherein selecting a geographic area defines a list of users" as claimed in claims 76 and 99. Therefore, the argument is not persuasive.

Applicants argue Jacobi does not collect real time rating information and does not display the real time rating information. The Examiner respectfully disagrees. In response, Jacobi discloses when the user rates an item; the recommendation engine 48 stores the rating data in a recommendation engine database 54 (col. 5, line 1+). Thus, the "real time rating information" is collected. Jacobi further discloses displaying

service items that are currently the most popular (col. 3, line 19+). Thus, the term "real time" as is interpreted as "currently" in Jacobi reference.

For reasons given above, the rejections on claims 69-114 are maintained as discussed below.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 76 and 99 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In claims 76 and 99, the limitation "wherein selecting a geographic area defines a list of users." is not supported in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 69-70, 74, 77-78, 80, 82, 86, 89, 92-93, 97, 100-101, 103, 105, 109, 112, are rejected under 35 U.S.C. 102(e) as being anticipated by Jacobi et al. (US 6,064,980).

Regarding claim 69, Jacobi discloses a system for recommending books, movies, recorded music, restaurants, news services, television shows, and other types of products and services (col. 4, lines 5-12). The rating data is generated as users rate specific titles. The recommendation engine 48 stores the ratings data in a recommendation engine database 54, and uses the information stored within this database to generate recommendation. The process of BookMatcher application 50 periodically (e.g., once a week) generates the start list 64 by selecting the BookMatcher titles that are currently the most popular (titles that have been rated the most over the

preceding week). The start list 64 is presented to new user for rating (see col. 3, line 16+). Therefore, Jacobi teaches a system for providing real time ratings (currently most popular) to users, comprising:

means for collecting real time ratings information based on the activities of at least one users at user television equipment (computer 32 at end user-figure 1, or database 60 – col. 6, line 22+, or database 54, col. 5, line 4+);

means for displaying the real time ratings information on the at least one user's television equipment in real time (displaying currently most popular items on user's screen- figure 1 and col. 3, line 19+).

Regarding claim 70, Jacobi discloses the process, which identifies the service items that are currently the most popular. The process may identify such items, for example, by identifying the service items that have been rated the most over some period of time (see col. 3, line 20+). Inherently, the system comprises means for providing an opportunity for defining a time frame for the real time ratings.

Regarding claim 74, Jacobi teaches the means for providing the opportunity for defining the time frame for the real time ratings further comprises means for providing an opportunity for defining a time frame of this week for the real time ratings (col. 6, line 66+).

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Regarding claim 77, Jacobi teaches the system comprises means for providing an opportunity for selecting a genre for the real time ratings (see figure 3 and col. 5, line 40+).

Regarding claim 78, Jacobi teaches means for providing an opportunity for selecting whether the real time ratings are for television programs (television shows- col. 4, lines 9-12).

Regarding claim 80, Jacobi teaches means for providing an opportunity for selecting whether the real time ratings are for non-program guide applications (recorded music, books, etc- col. 4, lines 9-12).

Regarding claim 82, Jacobi teaches displaying real time ratings information (startup list 64) on a screen (col. 3, line 20+); and the invention is applicable to recommendation services for books, for recommending movies, recorded music, restaurants, news services, television shows, and other types of products and services (see col. 4, lines 7-12). Inherently, the system comprises means for displaying real time television program ratings (television shows ratings).

Regarding claim 86, Jacobi teaches means for allowing each user to select which type of real time ratings are displayed (specific categories- see col. 7, line 35+).

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Regarding claim 89, Jacobi teaches the real time ratings information comprises a list of programs (currently most popular items in start up list 64- see col. 3, line 20+), the system comprising means for selecting one of the programs to purchase (user select and item to purchase- figure 6).

Regarding claims 92-93, 97, 100, 101, 103, 105, 109, 112, the limitations of the method as claimed correspond to the limitations of the system as claimed in claims 69-70, 74, 77, 78, 80, 82, 86; 89 and are analyzed as discussed with respect to the rejection of claims 69-70, 74, 77, 78, 80, 82, 86, 89.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 71-73, 75, 79, 81, 83-85, 94-96, 98, 102, 104, 106-108 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobi et al. (US 6,064,980).

Regarding claims 71-73, 75, Jacobi teaches a system as discussed in the rejection of claim 70. Jacobi further discloses a process of the BookMatcher application 50

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periodically (e.g., once a week) generates the startup list 64 by selecting the BookMatcher titles that are currently the most popular (see col. 6, line 66+). However, Jacobi does not specifically disclose providing an opportunity for defining a time frame of this hour or this evening or today or this instant for real time ratings. It is obvious that the system comprises means for providing an opportunity for defining a time frame of a particular hour, evening, day, instant for the real time ratings in order to provide rating of programs in a particular period of time, which would be the most interest to the consumers.

Regarding claims 79, 81, Jacobi teaches a system as discussed in the rejection of claim 69. Jacobi further discloses although the invention is described in the context of a recommendation service of books, the invention is also applicable to recommendation services for recommending movies, recorded music, restaurants, news services, television shows, and other types of products and service (see col. 4, lines 5-12); and the real time ratings information are displayed on new user screen (col. 3, line 20+). However, Jacobi does not specifically disclose the real time ratings are for applications or for video games. It is obvious that real time ratings are for applications, video games in order to expand capabilities of the system.

Regarding claim 83, Jacobi teaches a system as discussed in the rejection of claim 69. Jacobi further discloses although the invention is described in the context of a recommendation service of books, the invention is also applicable to recommendation

services for recommending movies, recorded music, restaurants, news services, television shows, and other types of products and service (col. 4, lines 5-12); and the real time ratings information are displayed on new user screen (col. 3, line 20+). However, Jacobi does not specifically disclose displaying real time video game ratings. It is obvious that the real time video games ratings are displayed in order to provide video games that are familiar to user thereby allow the user to rate program easily.

Regarding claims 84-85, Jacobi teaches a system as discussed in the rejection of claim 69. Jacobi further discloses a process of the BookMatcher application 50 periodically (e.g., once a week) generates the startup list 64 by selecting the BookMatcher titles that are currently the most popular (see col. 6, line 66+). However, Jacobi does not specifically disclose displaying real time ratings for a time period of this evening or this instant. It is obvious that the system comprises means for displaying real time ratings for a time period of this evening or this instant in order to provide rating of programs in a particular period of time, which would be the most interest to consumers.

Regarding claims 94-96, 98, 102, 104, 106-108, the limitations of the method as claimed correspond to the limitations of the system as claimed in claims 71-73, 75, 79, 81, 83-85 and are analyzed as discussed with respect to the rejection of claims 71-73, 75, 79, 81, 83-85.

9. Claims 76 and 99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobi et al. (US 6,064,980), and in view of Klosterman et al. (US 6,469,753).

Regarding claim 76, Jacobi teaches a system as discussed in the rejection of claim 69. Jacobi further discloses a list of users that participated in rating is stored in category of recommendation engine DB 54 (see figure 1, col. 5, line 15+); BookMatcher application 50 could be provided with routines for supplementing or filtering the recommendations returned by the recommendation engine 48 based on additional information such as geographic location (see col. 7, lines 48-54). However, Jacobi does not specifically disclose providing an opportunity for selecting a geographic area; wherein selecting a geographic area defines a list of users.

Klosterman teaches providing an opportunity for selecting a geographic area (user specifies the geographic region to display weather information of the selected area- Col. 12, line 20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Jacobi to use the teaching as taught by Klosterman in order to provide information of any specified region to users. However, neither Jacobi nor Klosterman specifically discloses users are grouped based on geographic area. Official Notice is taken that grouping users based on gender, ages, income, geographic area are well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify

Jacobi and Klosterman to use the well-known teaching in the art in order to allow providers to easily target advertisements to users.

Regarding claim 99, the limitations of the method as claimed correspond to the limitations of the system as claimed in claim 76 and are analyzed as discussed with respect to the rejection of claim 76.

10. Claims 87-88,110-111 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobi et al. (US 6,064,980), and in view of Aras et al. (5,872,588).

Regarding claim 87, Jacobi teaches a system as discussed in the rejection of claim 69. However, Jacobi does not explicitly disclose means for collecting information on whether a muting function is used when certain programs are watched.

Aras discloses separate AVI information for audio and video portions of AVMs may be utilized. Thus, objectionable language may be silenced while the video portion is presented (see col. 10, lines 17-20), and the user behaviors such as channel change, swap, pause, rewind, off, mute, record, etc. These responses may be to change a state variable, or to record information in the behavior collection table (see col. 14, lines 8-24). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Jacobi to use the teaching as taught by Aras in order to allow provider to avoid using audio in the program.

Regarding claim 88, Jacobi teaches a system as discussed in the rejection of claim 69. However, Jacobi does not explicitly disclose means for collecting information on whether any portion of video of a program is blocked as that program is watched.

Aras discloses each subscriber activity such as channel change or AVM stream change, pause, stop, picture in picture swap etc. or a filtered subset will be recorded (see col. 7, lines 18-20). Obviously, the system comprises means for collecting information on whether any portion of the video of a program is blocked as that program is watched. Therefore, it would have obvious to one of ordinary skill in the art to modify Jacobi to use the teaching as taught by Aras in order to allow provider avoid transferring the blocked program in the future.

Regarding claims 110-111, the limitations of the method as claimed correspond to the limitations of the system being claimed in claims 87-88 respective and are analyzed as discussed with respect to the rejection of claims 87-88.

11. Claims 90-91, 113, 114 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobi et al. (US 6,064,980), and in view of Ellis et al. (US 6,470,497).

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Regarding claim 90, Jacobi teaches a system as discussed in the rejection of claim 69.

Jacobi further teaches the real time ratings information comprises a list of programs (startup list 64- col. 3, line 22+). However, Jacobi does not specifically disclose selecting one of the programs to set a reminder for that program.

Ellis teaches selecting one of the programs to set a reminder for that program (col. 13, line 58+). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Jacobi to use the teaching as taught by Ellis in order to remind user to tune to the selected channel.

Regarding claim 91, Jacobi teaches a system as discussed in the rejection of claim 69.

Jacobi further teaches the real time ratings information comprises a list of programs (startup list 64- col. 3, line 22+). However, Jacobi does not specifically disclose selecting one of the programs record.

Ellis teaches selecting one of the programs to record (col. 16, line 32+). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Jacobi to use the teaching as taught by Ellis in order to provide user an option to record program for viewing later.

Regarding claims 113, 114, the limitations of the method as claimed correspond to the limitations of the system being claimed in claims 90-91 respective and are analyzed as discussed with respect to the rejection of claims 90-91.

***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P Huynh whose telephone number is 703-305-1889. The examiner can normally be reached on 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is 703-306-0377.

Son P. Huynh  
June 15, 2004



VIVEK SRIVASTAVA  
PRIMARY EXAMINER